



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

HOUSE BILL NO. 327

AS ENACTED

THURSDAY, APRIL 1, 2010

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Salter

AN ACT relating to school athletics and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔Section 1. KRS 156.070 is amended to read as follows:

2 (1) The Kentucky Board of Education shall have the management and control of the
3 common schools and all programs operated in these schools, including
4 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for
5 the Blind, and community education programs and services.

6 (2) The Kentucky Board of Education may designate an organization or agency to
7 manage interscholastic athletics in the common schools, provided that the rules,
8 regulations, and bylaws of any organization or agency so designated shall be
9 approved by the board, and provided further that any administrative hearing
10 conducted by the designated managing organization or agency shall be conducted in
11 accordance with KRS Chapter 13B.

12 (a) The state board or its designated agency shall assure through promulgation of
13 administrative regulations that if a secondary school sponsors or intends to
14 sponsor an athletic activity or sport that is similar to a sport for which
15 National Collegiate Athletic Association members offer an athletic
16 scholarship, the school shall sponsor the athletic activity or sport for which a
17 scholarship is offered. The administrative regulations shall specify which
18 athletic activities are similar to sports for which National Collegiate Athletic
19 Association members offer scholarships.

20 (b) Beginning with the 2003-2004 school year, the state board shall require any
21 agency or organization designated by the state board to manage interscholastic
22 athletics to adopt bylaws that establish as members of the agency's or
23 organization's board of control one (1) representative of nonpublic member
24 schools who is elected by the nonpublic school members of the agency or
25 organization from regions one (1) through eight (8) and one (1) representative

1 of nonpublic member schools who is elected by the nonpublic member
2 schools of the agency or organization from regions nine (9) through sixteen
3 (16). The nonpublic school representatives on the board of control shall not be
4 from classification A1 or D1 schools. Following initial election of these
5 nonpublic school representatives to the agency's or organization's board of
6 control, terms of the nonpublic school representatives shall be staggered so
7 that only one (1) nonpublic school member is elected in each even-numbered
8 year.

9 (c) The state board or any agency designated by the state board to manage
10 interscholastic athletics shall not promulgate rules, administrative regulations,
11 or bylaws that prohibit pupils in grades seven (7) to eight (8) from
12 participating in any high school sports except for high school varsity soccer
13 and football, or from participating on more than one (1) school-sponsored
14 team at the same time in the same sport. The Kentucky Board of Education, or
15 an agency designated by the board to manage interscholastic athletics, may
16 promulgate administrative regulations restricting, limiting, or prohibiting
17 participation in high school varsity soccer and football for students who have
18 not successfully completed the eighth grade.

19 (d) Every local board of education shall require an annual medical examination
20 performed and signed by a physician, physician assistant, advanced registered
21 nurse practitioner, or chiropractor, if performed within the professional's
22 scope of practice, for each student seeking eligibility to participate in any high
23 school athletic activity or sport. The Kentucky Board of Education or any
24 organization or agency designated by the state board to manage interscholastic
25 athletics shall not promulgate administrative regulations or adopt any policies
26 or bylaws that are contrary to the provisions of this paragraph.

27 (e) Any student who turns nineteen (19) years of age prior to August 1 shall not

be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. An exception to the provisions of this paragraph shall be made, and the student shall be eligible for high school athletics in Kentucky if the student:

1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;
2. Was retained in the primary school program because of an ARC committee recommendation; and
3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).

(f) 1. ~~{If }~~The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate~~{promulgates}~~ administrative regulations that permit a school district to employ or assign nonteaching or noncertified personnel or personnel without postsecondary education credit hours to serve in a coaching position~~;~~ ~~those administrative regulations shall apply to all sports and sports activities, including basketball and football~~. The administrative regulations shall give preference to the hiring or assignment of certified personnel~~{over nonteaching personnel}~~ in coaching positions.

2. A person employed in a coaching position shall be a high school graduate and at least twenty-one (21) years of age and shall submit to a criminal background check in accordance with KRS 160.380.

3. The administrative regulations shall specify post-hire requirements for persons employed in coaching positions.

1 4. The regulations shall permit a predetermined number of hours of
 2 professional development training approved by the state board or its
 3 designated agency to be used in lieu of postsecondary education credit
 4 hour requirements.

5 5. A local school board may specify post-hire requirements for personnel
 6 employed in coaching positions in addition to those specified in
 7 subparagraph 3. of this paragraph.

8 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State
 9 Property and Buildings Commission, or others, whether public or private, any
 10 lands, buildings, structures, installations, and facilities suitable for use in
 11 establishing and furthering television and related facilities as an aid or
 12 supplement to classroom instruction, throughout the Commonwealth, and for
 13 incidental use in any other proper public functions. The lease may be for any
 14 initial term commencing with the date of the lease and ending with the next
 15 ensuing June 30, which is the close of the then-current fiscal biennium of the
 16 Commonwealth, with exclusive options in favor of the board to renew the
 17 same for successive ensuing bienniums, July 1 in each even year to June 30 in
 18 the next ensuing even year; and the rentals may be fixed at the sums in each
 19 biennium, if renewed, sufficient to enable the State Property and Buildings
 20 Commission to pay therefrom the maturing principal of and interest on, and
 21 provide reserves for, any revenue bonds which the State Property and
 22 Buildings Commission may determine to be necessary and sufficient, in
 23 agreement with the board, to provide the cost of acquiring the television and
 24 related facilities, with appurtenances, and costs as may be incident to the
 25 issuance of the bonds.

26 (b) Each option of the Kentucky Board of Education to renew the lease for a
 27 succeeding biennial term may be exercised at any time after the adjournment

1 of the session of the General Assembly at which appropriations shall have
2 been made for the operation of the state government for such succeeding
3 biennial term, by notifying the State Property and Buildings Commission in
4 writing, signed by the chief state school officer, and delivered to the secretary
5 of the Finance and Administration Cabinet as a member of the commission.
6 The option shall be deemed automatically exercised, and the lease
7 automatically renewed for the succeeding biennium, effective on the first day
8 thereof, unless a written notice of the board's election not to renew shall have
9 been delivered in the office of the secretary of the Finance and Administration
10 Cabinet before the close of business on the last working day in April
11 immediately preceding the beginning of the succeeding biennium.

- 12 (c) The Kentucky Board of Education shall not itself operate leased television
13 facilities, or undertake the preparation of the educational presentations or
14 films to be transmitted thereby, but may enter into one (1) or more contracts to
15 provide therefor, with any public agency and instrumentality of the
16 Commonwealth having, or able to provide, a staff with proper technical
17 qualifications, upon which agency and instrumentality the board, through the
18 chief state school officer and the Department of Education, is represented in
19 such manner as to coordinate matters of curriculum with the curricula
20 prescribed for the public schools of the Commonwealth. Any contract for the
21 operation of the leased television or related facilities may permit limited and
22 special uses of the television or related facilities for other programs in the
23 public interest, subject to the reasonable terms and conditions as the board and
24 the operating agency and instrumentality may agree upon; but any contract
25 shall affirmatively forbid the use of the television or related facilities, at any
26 time or in any manner, in the dissemination of political propaganda or in
27 furtherance of the interest of any political party or candidate for public office,

or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

➔Section 2. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour

1 instructional days. A board of education may extend its term beyond the minimum
2 term.

3 (2) The local board of education, upon recommendation of the local school district
4 superintendent, shall adopt a school calendar for the upcoming school year that
5 establishes the opening and closing dates of the school term, beginning and ending
6 dates of each school month, instructional days, and days on which schools shall be
7 dismissed. The local board may schedule days for breaks in the school calendar that
8 shall not be counted as a part of the minimum school term.

9 (3) Any local board of education operating its schools on a year-round school program
10 basis shall conform with administrative regulations promulgated and adopted by the
11 Kentucky Board of Education upon the recommendation of the commissioner of
12 education, which regulations must be in conformity with the following criteria:

13 (a) The year-round school program shall be operated on a fiscal year beginning
14 July 1 and ending June 30;

15 (b) A pupil's required attendance in school shall be for at least the minimum
16 instructional term; and

17 (c) No teacher shall be required to teach more than the minimum term during the
18 school year.

19 (4) (a) Each local board of education shall use four (4) days of the minimum school
20 term for professional development and collegial planning activities for the
21 professional staff without the presence of pupils pursuant to the requirements
22 of KRS 156.095. At the discretion of the superintendent, one (1) day of
23 professional development may be used for district-wide activities and for
24 training that is mandated by federal or state law. The use of three (3) days
25 shall be planned by each school council, except that the district is encouraged
26 to provide technical assistance and leadership to school councils to maximize
27 existing resources and to encourage shared planning.

1 (b) A local board may approve a school's flexible professional development plan
2 that permits teachers or other certified personnel within a school to participate
3 in professional development activities outside the days scheduled in the school
4 calendar or the regularly scheduled hours in the school work day and receive
5 credit towards the four (4) day professional development requirement within
6 the minimum one hundred eighty-five (185) days that a teacher shall be
7 employed.

8 1. A flexible schedule option shall be reflected in the school's professional
9 development component within the school improvement plan or
10 consolidated plan and approved by the local board. Credit for approved
11 professional development activities may be accumulated in periods of
12 time other than full day segments.

13 2. No teacher or administrator shall be permitted to count participation in a
14 professional development activity under the flexible schedule option
15 unless the activity is related to the teacher's classroom assignment and
16 content area, or the administrator's job requirements, or is required by
17 the school improvement or consolidated plan, or is tied to the teacher's
18 or the administrator's individual growth plan. The supervisor shall give
19 prior approval and shall monitor compliance with the requirements of
20 this paragraph. In the case of teachers, a professional development
21 committee or the school council by council policy may be responsible
22 for reviewing requests for approval.

23 (c) The local board of each school district may use up to a maximum of four (4)
24 days of the minimum school term for holidays; provided, however, any
25 holiday which occurs on Saturday may be observed on the preceding Friday.

26 (d) Each local board may use two (2) days for planning activities without the
27 presence of pupils.

- 1 (e) Each local board may use the number of days deemed necessary for:
- 2 1. National or state disaster or mourning when proclaimed by the President
- 3 of the United States or the Governor of the Commonwealth of
- 4 Kentucky;
- 5 2. Local disaster which would endanger the health or safety of children;
- 6 and
- 7 3. Mourning when so designated by the local board of education and
- 8 approved by the Kentucky Board of Education upon recommendation of
- 9 the commissioner of education.
- 10 (5) The Kentucky Board of Education, upon recommendation of the commissioner of
- 11 education, shall adopt administrative regulations governing the use of school days,
- 12 including days missed from the regular school day as a result of local disaster, as
- 13 defined in subsection (4)(e)2. of this section, and regulations setting forth the
- 14 guidelines and procedures to be observed for the approval of the days utilized for
- 15 the opening and closing of school and the days utilized for professional
- 16 development and planning activities for the professional staff.
- 17 (6) (a) In setting the school calendar, school may be closed for two (2) consecutive
- 18 days for the purpose of permitting professional school employees to attend
- 19 statewide professional meetings. These two (2) days for statewide professional
- 20 meetings may be scheduled to begin with the first Thursday after Easter, or
- 21 upon request of the statewide professional education association having the
- 22 largest paid membership, the commissioner of education may designate
- 23 alternate dates. If schools are scheduled to operate during days designated for
- 24 the statewide professional meeting, the school district shall permit teachers
- 25 who are delegates to attend as compensated professional leave time and shall
- 26 employ substitute teachers in their absence. The commissioner of education
- 27 shall designate one (1) additional day during the school year when schools

1 shall be closed to permit professional school employees to participate in
 2 regional or district professional meetings. These three (3) days so designated
 3 for attendance at professional meetings shall not be counted as a part of the
 4 minimum school term. School shall be closed on the day of a regular election
 5 and on the day of a primary election, and those days may be used for
 6 professional development activities, professional meetings, or parent-teacher
 7 conferences.

8 (b) All schools shall be closed on the third Monday of January in observance of
 9 the birthday of Martin Luther King, Jr. Districts may:

- 10 1. Designate the day as one (1) of the four (4) holidays permitted under
- 11 subsection (4)(c) of this section; or
- 12 2. Not include the day in the minimum school term specified in subsection
- 13 (1) of this section.

14 (7) (a) The Kentucky Board of Education, or the organization or agency
 15 designated by the board to manage interscholastic athletics, shall be
 16 encouraged to schedule athletic competitions outside the regularly
 17 scheduled school day.

18 (b) Beginning with the 2009-2010 school year, any member of a school-
 19 sponsored interscholastic athletic team who competes in a regional
 20 tournament or state tournament sanctioned by the Kentucky Board of
 21 Education, or the organization or agency designated by the board to
 22 manage interscholastic athletics, and occurring on a regularly scheduled
 23 school day may be counted present at school on the date or dates of the
 24 competition, as determined by local board policy, for a maximum of two (2)
 25 days per student per year. The student shall be expected to complete any
 26 assignments missed on the date or dates of the competition.

27 (c) The school attendance record of any student for whom paragraph (b) of this

subsection applies shall indicate that the student was in attendance on the date or dates of competition.

(8) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

~~**(9)**~~**(8)** Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

~~**(10)**~~**(9)** Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

~~**(11)**~~**(10)** Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all

buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

~~(12)~~~~(11)~~ Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses school days due to emergencies, including weather-related emergencies:

(a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:

1. State and local requirements under this section are met regarding the equivalent of the number and length of instructional days, professional development days, holidays, and days for planning activities without the presence of pupils; and
2. The provisions of the district's school calendar to make up school days missed due to any emergency, as approved by the Kentucky Department of Education, including but not limited to a provision for additional instructional time per day, are met.

(b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:

1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make

up full days missed due to an emergency;

2. The employee's contract requires a minimum six (6) hour work day; and

3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.

(c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened instructional days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened instructional days.

➔Section 3. KRS 158.649 is amended to read as follows:

(1) "Achievement gap" means a substantive performance difference on each of the tested areas by grade level of the state assessment program between the various groups of students including male and female students, students with and without disabilities, students with and without English proficiency, minority and nonminority students, and students who are eligible for free and reduced lunch and those who are not eligible for free and reduced lunch.

(2) By November 1 of each year, the Department of Education shall provide each school council, or the principal if a school council does not exist, data on its students' performance as shown by the state assessment program described in KRS 158.6453. The data shall include, but not be limited to, information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, English proficiency, and participation in the federal free and reduced price lunch program. The information from the department shall include an equity analysis that shall identify the substantive differences among the various groups of students identified in subsection (1) of this section. Beginning with the 2012-2013 school year, the reporting requirement in

1 this subsection shall be no later than seventy-five (75) days following the first day
2 the assessment can be administered.

3 (3) Each local board of education upon the recommendation of the local district
4 superintendent shall adopt a policy for reviewing the academic performance on the
5 state assessments required under KRS 158.6453 for various groups of students,
6 including major racial groups, gender, disability, free and reduced price school
7 lunch eligibility, and limited English proficiency. The local board policy shall be
8 consistent with Kentucky Board of Education administrative regulations. Upon
9 agreement of the school-based decision making council, or the principal if there is
10 not a council, and the superintendent, the local board shall establish a biennial target
11 for each school for reducing identified gaps in achievement as set out in subsection
12 (4) of this section.

13 (4) By February 1, 2003, and each February 1 in odd-numbered years thereafter, the
14 school-based decision making council, or the principal if there is not a council, with
15 the involvement of parents, faculty, and staff shall set the school's biennial targets
16 for eliminating any achievement gap and submit them to the superintendent for
17 consideration. The superintendent and the school-based decision making council, or
18 the principal if there is not a council, shall agree on the biennial targets before they
19 are submitted to the local board of education for adoption. Beginning with the 2012-
20 2013 school year, the reporting requirement in this subsection shall be October 1 of
21 each year.

22 (5) By April 1, 2003, and each April 1 in odd-numbered years thereafter, the school
23 council, or the principal if a school council does not exist, with the involvement of
24 parents, faculty, and staff, shall review the data and revise the consolidated plan to
25 include the biennial targets, strategies, activities, and a time schedule calculated to
26 eliminate the achievement gap among various groups of students to the extent it
27 may exist. The plan shall include but not be limited to activities designed to address

1 the following areas:

- 2 (a) Curriculum alignment within the school and with schools that send or receive
- 3 the school's students;
- 4 (b) Evaluation and assessment strategies to continuously monitor and modify
- 5 instruction to meet student needs and support proficient student work;
- 6 (c) Professional development to address the goals of the plan;
- 7 (d) Parental communication and involvement;
- 8 (e) Attendance improvement and dropout prevention; and
- 9 (f) Technical assistance that will be accessed.

10 Beginning with the 2012-2013 school year, the reporting requirement in this
11 subsection shall be October 1 of each year.

12 (6) The principal shall convene a public meeting at the school to present and discuss the
13 plan prior to submitting it to the superintendent and the local board of education for
14 review, in the public meeting required under KRS 160.340.

15 (7) Based on the disaggregated assessment results, the local board shall determine if
16 each school achieved its targets for each group of students. Only data for a group of
17 students including ten (10) or more students shall be considered.

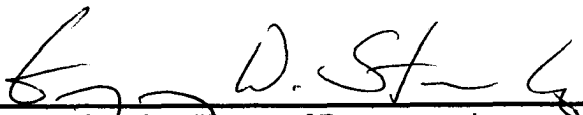
18 (8) Notwithstanding KRS 160.345(8) and 158.070~~(9)~~~~((8))~~, if a local board determines
19 that a school has not met its target to reduce the identified gap in student
20 achievement for a group of students, the local board shall require the council, or the
21 principal if no council exists, to submit its revisions to the school improvement plan
22 describing the use of professional development funds and funds allocated for
23 continuing education to reduce the school's achievement gap for review and
24 approval by the superintendent. The plan shall address how the school will meet the
25 academic needs of the students in the various groups identified in subsection (1) of
26 this section.


27 (9) The superintendent shall report to the commissioner of education if a school fails to

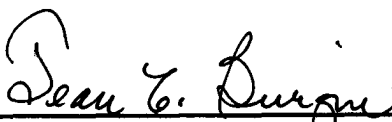
1 meet its targets to reduce the gap in student achievement for any student group for
2 two (2) consecutive years. The school's improvement plan shall be subject to
3 review and approval by the Kentucky Department of Education and the school shall
4 submit an annual status report. The Department of Education may provide
5 assistance to schools as it deems necessary to assist the school in meeting its goals.

6 (10) The school-based decision making council, or the principal if there is not a council,
7 shall no longer be required to seek approval of the plan under subsections (8) and
8 (9) of this section when it meets its biennial target for reducing the gap in student
9 achievement for the various groups of students identified in subsection (1) of this
10 section.

11 ➔Section 4. Whereas, regional and state competitions for some sports occur prior
12 to the effective date of this Act, an emergency is declared to exist and this Act takes effect
13 upon its passage or upon its otherwise becoming a law.


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 